

June 12, 2019

Via SCPSC E-FILING DMS

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, SC 29210

**Re: Application of Duke Energy Carolinas, LLC for Adjustments in Electric Rate
Schedules and Tariffs and Request for an Accounting Order;
Docket No. 2018-319-E**

Dear Ms. Boyd:

Please find attached for electronic filing with the South Carolina Public Service Commission ("Commission"), the Response of Walmart Inc. to Petition for Reconsideration filed by Duke Energy Carolinas, LLC, in the above-referenced case. By copy of this letter, I am serving all parties of record via Electronic Mail.

Please contact us if you have any questions concerning this filing.

Sincerely,

SPILMAN THOMAS & BATTLE, PLLC

By

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SUE/sds
Attachments
c: Certificate of Service

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018-319-E

IN RE: Application of Duke Energy)	RESPONSE OF WALMART INC. TO
Carolinas, LLC for Adjustments in Electric)	PETITION FOR
Rate Schedules and Tariffs and Request for an)	RECONSIDERATION FILED BY
Accounting Order)	DUKE ENERGY CAROLINAS, LLC

The Public Service Commission of South Carolina ("Commission") should deny Duke Energy Carolinas, LLC's ("DEC" or "Company") Petition for Rehearing or Reconsideration of Order No. 2019-323 ("Petition") to the extent it seeks reconsideration of the 9.5 percent Return on Equity ("ROE") awarded to DEC by this Commission as DEC has failed to articulate adequate grounds for granting its Petition.¹ The thrust of DEC's argument as set forth in its Petition is that this Commission accepted Mr. Hevert's ROE testimony as reliable in the South Carolina Electric & Gas Company's ("SCE&G") Consolidated Cases² and, having done so, it cannot now find his testimony to be unreliable here.³ DEC's arguments in support of its Petition are contrary to South Carolina law as well as the *Hope* and *Bluefield* standards and should be rejected.

The standards governing the Commission's determination of the appropriate ROE are not in dispute. South Carolina law requires that "[t]he Commission's determination of a fair rate of return must be documented fully in its findings of fact and based exclusively on reliable, probative,

¹ See S.C. Code Ann. § 1-23-380.

² See Docket Nos. 2017-207-E, 2017-305-E, and 2017-370-E ("SCE&G Consolidated Cases").

³ Petition, p. 12 (stating that "[t]he ruling in this proceeding...cannot be reconciled with the Commission's rulings in the SCE&G consolidated cases").

and substantial evidence on the whole record."⁴ Moreover, a utility's ROE "should be commensurate with returns on investments in other enterprises *having corresponding risks*,"⁵ and must be "reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties."⁶

DEC is not asking this Commission to base its decision on evidence produced in the record of *this* case, but to base its decision on evidence that was produced in an entirely different docket and related to an entirely different utility.⁷ This request is contrary to South Carolina law. DEC presented no evidence in this case to suggest that DEC and SCE&G were comparable in terms of risk such that they should be awarded the same ROE, nor could it. Indeed, DEC's own evidence suggested that its corporate parent had strong credit ratings and was financial sound, which contrasts markedly with the evidence produced in the SCE&G Consolidated Cases that SCE&G was at risk of bankruptcy.⁸ Moreover, the ultimate ROE awarded in the SCE&G Consolidated Cases was the result of a settlement⁹ whereas this case was fully litigated. These two utilities were so obviously dissimilar in terms of risk that DEC's own ROE witness *excluded* SCE&G's corporate parent, Dominion Energy, Inc. ("Dominion"), from his list of proxy companies on this basis it was

⁴ S.C. Code Ann. § 58-27-870(G); *see also* Order No. 2019-323, p. 70 (stating that "the Commission must determine a fair and reasonable rate of return and must document fully the evidence to justify the rate of return which they award") (citations omitted).

⁵ *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (emphasis added).

⁶ *Bluefield Water Works and Improvement Co. v. Public Service Commission of West Virginia*, 262 U.S. 679, 692-93 (1923).

⁷ Petition, pp. 10-12 (discussing the Commission's ruling in the SCE&G Consolidated Cases).

⁸ *See* Docket Nos. 2017-207-E, 2017-305-E, and 2017-370-E, Order No. 2018-804, p. 117 (noting that "[w]hile not perfect, Plan B-L provides finality and certainty by removing the potential risk of an SCE&G bankruptcy which might have occurred without the merger with Dominion").

⁹ *See id.* at 90.

not adequately comparable.¹⁰ DEC cannot now argue that it should be treated similarly to SCE&G when all evidence suggests their dissimilarity.

Because SCE&G and DEC did not have corresponding risks, it is logical that they may be awarded different ROEs, notwithstanding the fact that both SCE&G and DEC relied upon Mr. Hevert as their ROE witness. Indeed, it is, in part, precisely because Mr. Hevert's testimony was "similar" in this this case and the SCE&G proceeding¹¹ that justified the Commission's finding that his testimony in *this* proceeding was "extremely misaligned and biased in the Company's favor...[such that it called] into question the validity and credibility of his analyses."¹² SCE&G and DEC had very different risk profiles, thus, the ROE needed to compensate them consistent with the *Hope* and *Bluefield* standards were different. The Commission properly found that Mr. Hevert's proposed ROE range simply was too high relative to the risks faced by DEC, and the Company has produced no evidence in its Petition to suggest that this Commission's decision to set DEC's ROE at 9.5 percent was improper.

CONCLUSION

For the reasons set forth above, Walmart Inc. respectfully requests that this Commission reject the Petition for Rehearing or Reconsideration of Order No. 2019-323 filed by Duke Energy Carolinas, LLC, to reconsider the 9.5 percent return on equity awarded to the Company.


¹⁰ Direct Testimony of Robert B. Hevert, p. 15, line 9 to p. 17, line 2 (identifying selected proxy group and stating that "[a] proxy group should consist of companies with risk profiles comparable to the subject company"); see Hearing Transcript, Vol. 8, p. 1889, lines 9-16.

¹¹ Petition, p. 10.

¹² See Order No. 2019-323, pp. 68-69.

Respectfully submitted,

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Dated: June 12, 2019

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018-319-E

IN RE: Application of Duke Energy)	CERTIFICATE OF SERVICE
Carolinas, LLC for Adjustments in Electric)	
Rate Schedules and Tariffs and Request for an)	
Accounting Order)	

I hereby certify that I have this day served one (1) copy of the foregoing document upon the following parties to this proceeding via Electronic Mail:

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